

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT
DIVISION V

BRUCE FRANKS, JR.,)	No. ED104797
)	
Respondent,)	
)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	Cause No. 1622-CC09996
)	
PENNY V. HUBBARD,)	Honorable Rex M. Burlison
)	
Appellant.)	Filed: September 13, 2016

Appellant Penny V. Hubbard (Hubbard) appeals the trial court's order and judgment in favor of Respondent Bruce Franks Jr. (Franks). The trial court found that the City of St. Louis Board of Election Commissioners' acceptance of 142 absentee ballots cast electronically without ballot envelopes violated Missouri law. The trial court further held this to be an irregularity of sufficient magnitude to cast doubt on the validity of the primary election for democratic representative in the 78th district and ordered a new election. Because we find there was substantial evidence to support the trial court's holding, it was not against the weight of the evidence, and it did not erroneously declare or apply the law, we affirm.

AFFIRMED.

Division Two Holds: There was sufficient evidence presented at trial for the trial court to find 142 absentee ballots were cast without the accompanying ballot envelopes required by RSMo § 115.283. The law is unambiguous and mandatory that this constitutes an irregularity in the voting process. Additionally, the parties stipulated that 8 votes were counted in error, bringing the number of invalid votes to 150. The margin of victory in the election was 90 votes. We affirm the trial court's holding that the irregularity was of sufficient magnitude to cast doubt on the validity of the election and to warrant a new election.

Opinion by: Roy L. Richter, J

Philip M. Hess, C.J., and Colleen Dolan, J., concur.

Attorney for Appellant: Jane E. Dueker, Arthur D. Gregg, and Michael J Colona

Attorney for Respondent: David E. Roland

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